IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MS. JUSTICE G.ROHINI**

**WRIT PETITION Nos.2518 OF 2001, 19709, 19723**

**AND 19869 OF 2002**

**In WRIT PETITION NO : 2518 of 2001**

Between:

C.V.B.Krishna Murthy, S/o. Late Challa Papayya Sastry,
R/o Plot.No.810, Defence Colony, Sainikpuri(post),
Secunderabad.

**..... PETITIONER**

AND

1 The Government of Andhra Pradesh, Municipal Administration Department,
Rep. by its Secretary, Secretariat, Hyderabad.
2 The Commissioner, Malkajgiri Municipality,
Malkajgiri, Secunderabad.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction, more especially one in the nature of Writ of Mandamus declaring the action of the Respondent No.2 in treating the constructed property of the petitioner in Plot.No.810 (Survey No.218/1) of Defence Colony layout, Malkajgiri, Secunderabad as open land is arbitrary, illegal and untenable and consequently direct the respondents to consider the application under BRS Scheme for regularisation and dispose of the same in accordance with law.

**Counsel for the Petitioner : MR. P.SRI RAGHU RAM**

**Counsel for the Respondent No.1 : GP FOR MUNCIPAL ADMN. & URBAN DEV.**

**Counsel for the Respondent No.2: Mr. V.Viswanadham, SC for Municipal Corporation**

**In WRIT PETITION NO : 19709 of 2002**

Between:

**1 M.Jainuddin, S/o M.Ali Saheb, Plot.No.938, Defence colony, Sainikpuri, Secunderabad.**
**2 Smt. T.J.Pushpavathy, W/o T.Seshagiri Rao, Plot.No.955, Defence colony, Sainikpuri, Secunderabad.**
**3 P.Surya Prakasha Rao, S/o P.Radhakrishnaiah, Plot.No.831, Defence colony, Sainikpuri, Secunderabad.**
**4 S.Sudhir Reddy, S/o R.Gopal Reddy, Plot.No.933, Defence colony, Sainikpuri, Secunderabad.**
**5 K.Sujana Sri, W/o K.Koteswara Rao, Plot.No.975, Defence colony, Sainikpuri, Secunderabad.**
**6 B.Chandrakala Joseph, W/o.Late.B.John Manohar, Plot.No.979, Defence colony, Sainikpuri, Secunderabad.**
**7 D.Subrahmaneswara Rao, S/o. Rama Krishna Rao, Plot No. 980 Defence colony, Sainikpuri, Secunderabad.**

**..... PETITIONERS**

AND

1 The Govt. of Andhra Pradesh, Rep. by its Secretary, Municipal Administration, Secretariat Buidings, Saifabad, Hyderabad.
2 Hyderabad Urban Development Authority, Rep. by its Vice Chairman, Opp Police Lane, Begumpet, Hyderabad-500016.
3 Malkajgiri Municipality, Rep. by its Commissioner, Malkajgiri, Ranga Reddy District.
4 The Defence Co- operative Housing Society, Rep. by its Secretary, Malkajgiri, Ranga Reddy District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or order or direction more particularly one in the nature of Writ of Mandamus declaring the treatment of the petitioners plots in the open area of the lay out as without jurisdiction, arbitrary, illegal, and consequently direct the respondents to consider the proceedings of regularization of the constructions already made by the petitioners .

**Counsel for the Petitioner : MR. P.SRI RAGHU RAM**

**Counsel for the Respondent No.1 : GP FOR MUNCIPAL ADMN. & URBAN DEV.**

**Counsel for the Respondent No.2: Mr. B.Viswanath Reddy, SC for HUDA.**

**Counsel for the Respondent No.3: Mr. V. Viswanatham, SC for Malkajgiri Municipality.**

**Counsel for the Respondent No.4: Mr. R. Mahendar Reddy, Advocate**

**In WRIT PETITION NO : 19723 of 2002**

Between:

1 M.Ahalya, W/o Sri.M.Siva Murthy
Plot.No.956, Defence Colony, Sainikpuri, Secunderabad.
2 M.Nandikeswara Rao, S/o late.Basavaiah,
Plot.No.826, Defence Colony, Sainikpuri, Secunderabad.
3 C.Visweswara Rao, S/o.Sri Venkata Ratnam,
Plot.No.976, Defence Colony, Sainikpuri, Secunderabad.
4 V.Niranjan Rao, S/o V.Venkateswara Rao,
Plot.No.966, Defence Colony, Sainikpuri, Secunderabad.
5 Chalasani Bhaskar, S/o Chalasani Sundara Ramayya,
Plot.No.960, Defence Colony, Sainikpuri, Secunderabad.
6 C.Rajani, W/o C.Visweswara Rao,
Plot.No.957, Defence Colony, Sainikpuri, Secunderabad.
7 B.Venkateswara Rao, S/o B.Bhaskar Rao,
Plot.No.48, Defence Colony, Sainikpuri, Secunderabad.
8 C.B.Suryaprakash, S/o C.Balamallaiah,
Plot.No.974, Defence Colony, Sainikpuri, Secunderabad.
9 U.Sreenivas, S/o U.Rathaiah, Plot.No.973, Defence Colony,
Sainikpuri, Secunderabad.

**..... PETITIONERS**

AND

1 The Government of Andhra Pradesh Rep. by its Secretary, Municipal Administration, Secretariat Building, Saifabad, Hyderabad
2 Hyderabad Urban Development Authority, Rep. by its Vice Chairman, Opp Police Lines, Begumpet, Hyderabad-500016.
3 Malkajigiri Municipality Rep. by its Commissioner,
Malkajigiri, Ranga Reddy District.
4 The Defence Co-operative Housing Society, Rep. by its Secretary,
Malkajigiri, R.R.District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or order or direction more particularly one in the Nature of Mandamus declaring the action of the respondents in treating the plots of the petitioners as a part of open space is illegal, arbitrary, and without jurisdiction and consequently direct the respondents to accepted and consider the application of the petitioners for construction of the residential buildings as a residential plots.

**Counsel for the Petitioner : MR. P.SRI RAGHU RAM**

**Counsel for the Respondent No.1 : GP FOR MUNCIPAL ADMN. & URBAN DEV.**

**Counsel for the Respondent No.2: Mr. B.Viswanath Reddy, SC for HUDA.**

**Counsel for the Respondent No.3: Mr. V. Viswanatham, SC for Malkajgiri Municipality.**

**Counsel for the Respondent No.4: Mr. R. Mahendar Reddy, Advocate**

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**And**

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**In WRIT PETITION NO : 19869 of 2002**

Between:

1 P.V.Pandit, Tataiah Raja,
Plot.No.9A, Defence Colony,
Sainikpuri, Secunderabad.
2 Anagani Rama Rao, S/o.A.Subba Rao,
Plot.No.15, Defence Colony,
Sainikpuri, Secunderabad.
3 K.Venkateswara Rao, S/o late K.Kanakaiah
Plot.No.824 Defence Colony,
Sainikpuri, Secunderabad.
4 P.V.Satyanarayana, S/o Late P.Govindaiah,
Plot.No.778 Defence Colony,
Sainikpuri, Secunderabad.
5 D.Nageswara Rao, S/o late D.V.Ratnam,
Plot.No.51, Defence Colony,
Sainikpuri, Secunderabad.
6 T.A.Raja Rao, S/o. Soma Raju,
Plot.No.699, Defence Colony,
Sainikpuri, Secunderabad.

**..... PETITIONERS**

AND

1 The Government of Andhra Pradesh. Rep. by its Secretary, Municipal Administration, Secretariat Building, Saifabad, Hyderabad.
2 Hyderabad Urban Development Authority, Rep. by its Vice Chairman,
Opp Police Lines, Begumpet, Hyderabad-500016.
3 Malkajigiri Municipality, Rep. by its Commissioner,
Malkajigiri, Ranga Reddy District

4 The Defence Co-operative Housing Society, Rep. by its Secretary, Malkajigiri, Ranga Reddy District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or order or direction more particularly one in the Nature of Mandamus declaring the action of the respondents in treating the plots of the petitioners as a part of open space is without jurisdiction, illegal and consequently direct the respondents accepted and to consider the application of the petitioners for further construction.

**Counsel for the Petitioner : MR. P.SRI RAGHU RAM**

**Counsel for the Respondent No.1 : GP FOR MUNCIPAL ADMN. & URBAN DEV.**

**Counsel for the Respondent No.2: Mr. B.Viswanath Reddy, SC for HUDA.**

**Counsel for the Respondent No.3: Mr. V. Viswanatham, SC for Malkajgiri Municipality.**

**Counsel for the Respondent No.4: Mr. R. Mahendar Reddy, Advocate**

**The Court made the following common order :**

**THE HON'BLE MS. JUSTICE G.ROHINI**

**WRIT PETITION Nos.2518 OF 2001, 19709, 19723**

**AND 19869 OF 2002**

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**COMMON ORDER :**

All these four writ petitions are filed with a common prayer seeking a Writ of Mandamus declaring that the action of the Commissioner, Malkajgiri Municipality in treating the respective plots purchased by the petitioners from the Defence Housing Co-operative Society Limited situated in Sy.No.218 of Malkajgiri as open land as per the layout sanctioned by the Director of Town and Country Planning as arbitrary and illegal. Since common questions of fact and law arise for consideration, all the writ

petitions are heard together and decided by this common order.

The writ petitioner in W.P.No.2518 of 2001 claims to be the owner and possessor of a plot bearing No.810 of Defence Colony situated in Sy.No.218/1, Malkajgiri, Secunderabad, having purchased the same from the Defence Housing Co-operative Society (OR) Limited under a Registered Sale Deed, dated 12-09-1980. Subsequently, in the year 1981, the Gram Panchayat, Malkajgiri was constituted as a Municipality. In the circumstances, having obtained the permission from the Commissioner of Malkajgiri Municipality vide proceedings dated 5-2-1990, the petitioner constructed a building in the said plot and has been in occupation of the same. It is stated that the said land was also assessed under A.P. Non-agricultural Lands Assessment Act, 1963 and he has been paying the property tax regularly. The Special Officer, Malkajgiri, vide order dated 23-3-1997, has also sanctioned water connection to the petitioner's house. While so, the petitioner applied for permission for construction of 1st and 2nd floors on the above said building as per the plan attached thereto. In response to the same, the petitioner was served with a notice dated 7-9-2000 issued by the Commissioner, Malkajgiri Municipality under Section 228 (1) of the A.P. Municipalities Act, 1965 alleging unauthorised construction with 1.2 mts. set back instead of 3 mts. and also stating that the petitioner's plot is earmarked as open space in the lay out. The petitioner states that the lay out of the defence colony was approved way back in the year 1966 by the then Gram Panchayat, Malkajgiri and individual plots are in accordance with the said lay out approved by the Gram Panchayat, Malkajgiri. Hence, the petitioner seeks a Writ of Mandamus declaring that the action of the Municipality in treating the plot in question, wherein the petitioner has already constructed the building, as open land is arbitrary and illegal.

The petitioner claims that since there was no response from the respondent Municipality in pursuance of the application made by him seeking permission for construction of first and second floors, after expiry of the statutory period he has commenced the construction duly informing the Municipality by notice dated 22-01-2001. That apart, he made an application on 7-9-1998 under Building Regulation

Scheme for regularization of certain deviations. However, the same was refused with an endorsement that *"construction is in open space, cannot be regularized."* Hence, the petitioner seeks a further direction to the respondents to consider his application for regularization of the constructions already made.

The petitioners in W.P.No.19709, 19723 & 19869 of 2002 also claim to be the members of the Defence Housing Co-operative Society. It is stated that having purchased the respective plots from the society, situated in Sy.No.218 in respect of which the layout was sanctioned by the Malkajgiri Gram Panchayat on 29-1-1966, they approached the Malkajgiri Municipality for grant of building permissions. However, the Municipality refused to entertain the applications on the ground that the plots of the petitioners are situated in the open area as per the lay out said to have been sanctioned by the Director of Town and Country Planning in the year 1965. Hence, the writ petitions seeking a declaration that the action of the respondents in treating the plots of the petitioners as open area in the lay out as arbitrary and illegal.

The Municipal Commissioner, Malkajgiri Municipality filed counter-affidavits in all the writ petitions stating that originally the lay out was sanctioned by the Director of Town and Country Planning, A.P., Hyderabad in respect of the land in Sy.No218 of Malkajgiri to an extent of 112 acres. Though the said layout was approved by the competent authority, it was not given effect to, but subsequently, the Gram Panchayat has approved different lay outs in the year 1966. In the year 1990, the Municipal Council has passed a resolution dated 26-4-1990 not to grant building permissions since by not following the Director of Town Planning layout, the Municipality is loosing the reserved open spaces. Subsequently, on a representation made by the residents of the colony, the Municipal Council resolved that the open spaces should be kept open according to the layout sanctioned by the Director of Town and Country Planning and so far as the plots other than the open spaces, the permissions can be accorded as per the Gram Panchayat Lay Out. Since then, the Municipality has stopped the permissions for construction in the open spaces as per the lay out approved by the Director of Town and Country Planning, Hyderabad. It is stated that the plots of the petitioners are situated in the open spaces as per the lay out approved by the Director of Town and Country Planning, Hyderabad and

therefore the action of the Municipality in rejecting / not entertaining their applications for building permissions is in accordance with law.

I have heard the learned Counsel for the petitioners as well as the learned Standing Counsel appearing for the respondents.

As can be seen from the material on record, the State Government, vide G.O.Ms.No.1100, Revenue Department, dated 16-7-1964, allotted an extent of Ac.112-03 guntas of land situated in Sy.No.218/1 of Malkajgiri Village, Hyderabad East Taluk to the Defence Personnel Co-operative Housing Society, Hyderabad subject to the conditions specified thereunder. The specific case of the petitioners is that at the instance of the said society the Malakajgiri Gram Panchayat has approved the lay out vide G.P.L.P.No.328/66, dated 29-01-1966 according to which an extent of 2400 sq. yards of land was set apart for open place. Subsequently, the Malkajgiri Gram Panchayat was upgraded as Municipality in the year 1981. While so, during the year 1998 it appears that the District Collector, Rangareddy issued proceedings allotting the open land set out under the said lay out for the purpose of construction of Mandal Revenue Office and Police Station, on the basis of the resolutions passed by the Municipality to that effect. Aggrieved by the said action, the Defence Colony Residents Welfare Association filed W.P.No.18276 of 1998. In the said writ petition, the Commissioner of Malkajgiri Municipality filed a counter-affidavit conceding the fact that the then Gram Panchayat has approved the layout bearing No.328/66 in which an extent of 2400 sq. yards of land was set apart for open place. However, it was contended that the allotment of the said open place for construction of the public offices i.e, for a public purpose is valid since the same vested with the Municipality. Though the said writ petition was dismissed by order dated 7-9-1998 holding that the land vested in the Municipality can be allotted for any other public purpose and therefore it is competent for the Municipality to permit the construction of the Government Offices on the land set apart under Section 184 of the A.P. Municipalities Act, 1965, subsequently the said view expressed by the learned Single Judge was held to be not correct by two Division Benches in the decisions rendered in CHINA WALTAIR COLONY HOUSE OWNERS WELFARE ASSOCIATION vs. VISAKHAPATNAM MUNICIPAL CORPN. & OTHERS SRI BALAJI PARK RESIDENTS WELFARE ASSOCIATION vs. VISAKHAPATNAM

URBAN DEVELOPMENT AUTHORITY.

It is relevant to note that soon after the upgradation of the Malkajgiri Gram Panchayat as Municipality, in response to a letter addressed by the Defence Housing Co-operative Society seeking certain clarifications, the Hyderabad Urban Development Authority vide letter dated 27-6-1983 informed the Society that the layout approved by the then Gram Panchayat, Malkajgiri in the year 1966 was being followed by the Municipality and that the building plans for individual plots were also found to be in accordance with the layout approved by the Gram Panchayat, Malkajgiri as well as the Rules made under the A.P. Gram Panchayats Act.

It is also not in dispute that in December, 1989 the petitioner in W.P.No.2518 of 2001 made an application to the Municipality, Malkajgiri seeking permission for construction of a building in Plot No.810 as per the layout approved by the Gram Panchayat in the year 1966 and the same was sanctioned by the Municipality on 5-2-1990 vide Permit No.C1/3672/89. Thus, obviously, the Municipality has accepted the layout approved by the Malkajgiri Gram Panchayat in the year 1966 and has been acting upon it while granting permissions for construction of buildings in the respective plots as per the said layout. Hence, the question is whether the objection now raised by the respondent Municipality that the plots purchased by the writ petitioners are situated in the open area earmarked under the layout approved by the Director of Town and Country Planning in the year 1965 and on that ground initiating steps for demolition of the constructions already made and in refusing to grant permission for fresh constructions is sustainable.

In the additional counter-affidavit filed on behalf of the Municipality, it is explained that the layout No.26/65 was approved by the Director of Town and Country Planning on 3-11-1965 and that the said layout consists of three societies which fall within the jurisdiction of Kapra Gram Panchayat and Malkajgiri Gram Panchayat. The Defence Colony in which the land in question i.e., Sy.No.218 is situated falls under the jurisdiction of Malkajgiri Gram Panchayat, now upgraded as Malkajgiri Municipality. It is stated that the layout approved by the Director of Town and Country Planning was not given effect to by the concerned Gram Panchayats

and instead fresh revised layouts were sanctioned separately by the Malkajgiri Gram Panchayat in respect of Defence Colony and Vayupuri in the years 1966 and 1967 respectively with different type and pattern of plots. It is also stated that whereas in the layouts approved by the Director of Town and Country Planning, a big area was earmarked for open space in the Defence Colony, the Gram Panchayat, Malkajgiri while approving the layout in the year 1966 for Defence Colony, converted a major portion of the said reserved open space into plots of 70/45 feet with an uniform pattern of plotting and made 1039 plots in all. The said layout approved by the Gram Panchayat was not in conformity with the layout bearing No.26/65 approved by the Director of Town and Country Planning and consequently building permissions were being granted in the reserved open spaces. Having noted the same, the Municipal Council passed a Resolution, dated 26-4-1990 to get the land surveyed by the Director of Town and Country Planning, Hyderabad and the Revenue Authorities and that the building permissions should not be granted until the survey report is received and a decision is taken with regard to the action required to be initiated against the concerned officials who are responsible for bringing separate layouts, contrary to the layout approved by the Director of Town and Country Planning. Subsequently, the Municipal Council passed a further resolution dated 22-12-1993 to the effect that the open spaces as per the layout sanctioned by the Director of Town and Country Planning should not be altered and building permissions can be accorded only in respect of other plots as per the erstwhile Gram Panchayat layout. Since then the Municipality has stopped granting permissions in the open spaces earmarked under the layout approved by the Director of Town and Country Planning. It is contended that the Gram Panchayat had no authority to approve the layout and the Director of Town and Country Planning alone is competent and therefore the layout approved by the Gram Panchayat cannot be considered as valid.

On the other hand, the petitioners, while placing reliance upon Rule 5(2) of A.P. Gram Panchayat Building Rules, 1972, contend that the Director of Town Planning is only a recommendatory authority and ultimately it is for the Gram Panchayat to sanction the layout and once such sanction is granted by the Gram Panchayat, the same is final and binding.

In exercise of powers conferred by Section 217 (1) & (2) of The A.P. Gram Panchayat Act, 1964, the Government of A.P. made Rules relating to the regulation and restriction of building and the use of sites for building. The said Rules issued under G.O.Ms.No.377, Panchayat Raj (Samithi-I) Department, dated 12-10-1973 are called the A.P. Gram Panchayat Building Rules, 1972. Rule-3 of the said Rules provides that the owner of any land shall before he utilizes, sells, leases or otherwise disposes of such land or any potion thereof as sites for construction of the buildings make a layout and form a street or road and also set apart in the layout at least five per cent of the total area of the land for a playground, a park, an educational institution or for any other public purpose as may be prescribed by the Gram Panchayat. As per Rule-5 of the Rules, any person intending to make a layout and forming a new private street or road shall send to the Gram Panchayat Office, a written application with plans and sections showing the particulars specified thereunder including the areas set apart for public purposes. Sub-rule (2) of Rule 5 specifies that the Executive Authority shall place such application before the Gram Panchayat together with his remarks within 30 days from the date of its receipt and thereafter the Gram Panchayat shall call for further particulars where necessary or forward the same to the Director of Town and Country Planning. In pursuance thereof, the Director of Town and Country Planning within 90 days shall forward his recommendations to the Gram Panchayat. Thereafter, the Gram Panchayat may within 15 days from the date of receipt of the recommendation of the Director of Town and Country Planning, sanctioned the layout having due regard to such recommendations and subject to such conditions as made deem fit or refused to sanction for reasons to be recorded in writing. On a combined reading of Rules 3 and 5, it is clear that the Gram Panchayat is the authority for sanction of layout in respect of the land situated within the jurisdiction of the concerned Gram Panchayat. Though the Executive Authority is bound to forward to the Director of Town Planning, the layout plan in pursuance of which the Director of Town Planning is required to forward his recommendations, undoubtedly the authority lies with the Gram Panchayat to sanction the layout, of course, having due regard to the recommendations of the Director of Town Planning.

It is true that the A.P. Gram Panchayat Building Rules were made only in the year

1973 under G.O.Ms.No.377, dated 12-10-1973 and by the date of the sanction of the layout by the Malkajgiri Gram Panchayat in the year 1966, no statutory rules were in force. But, I am unable to hold that the Gram Panchayat was without any authority to approve the layout. May be that, no Rules were made prescribing the procedure to be followed for sanction of the layout. However, nothing has been placed before this Court by the respondents to show that the Gram Panchayat was not competent to sanction the layout and particularly to show that the layout approved by the Director of Town and Country Planning was binding on the Gram Panchayat.

It is relevant to note that the Malkajgiri Gram Panchayat has sanctioned the layout way back in the year 1966 which is available in the office of the Municipality, on the basis of which building permissions were granted to several plot owners of the Defence Colony. As a matter of fact, the Malkajgiri Municipality itself passed a resolution for construction of buildings for the purpose of locating the Mandal Revenue Office and the Police Station in the open area set apart in the said layout. In W.P.No.18276 of 1998 filed by the Defence Colony Residents Welfare Association questioning the proposed construction of the said Mandal Revenue Office and the Police Station in the open areas earmarked in the layout sanctioned by the Gram Panchayat, the Commissioner, Municipality never raised any objection as to the validity of the said layout, but on the other hand sought to justify the impugned action on the ground that it is always open to utilise the land earmarked for open space for any other public purpose. Even the Hyderabad Urban Development Authority (HUDA) in its letter, dated 27-6-1983, clarified that the Special Officer, Malkajgiri Municipality has been following the layout approved by the Gram Panchayat. Even the District Collector, Rangareddy vide his letter dated 30-04-2002 accorded permission to the Sub-Registrar, Malkajgiri for registration of open plots as per the approved layout.

It is also relevant to note that so far as the petitioner in W.P.No.2518 of 2001 is concerned, the 1st respondent Municipality has granted building permission dated 5-2-1990 on the basis of the same layout sanctioned by the Gram Panchayat. Admittedly, the said petitioner as well as the petitioners in other writ petitions purchased the respective plots more than two decades ago under Registered Deeds. If that be so, the objection now raised by the respondent Municipality after

two decades on the ground that the plots in question are located in the open area as per the layout sanctioned by the Director of Town Planning appears to be unjustified. Since no case is made out to show that the Gram Panchayat is without authority to sanction the layout, even assuming that there is any discrepancy between the two layouts, I am of the view that the respondents cannot be permitted to raise any objection at this length of time which would adversely affect the rights acquired by the petitioners who have purchased the plots in question for valuable consideration under registered sale deeds. It is not as if under the layout sanctioned by the Gram Panchayat the 5% of the total area of the land was not set apart for public purpose as required under the Statutory Rules, but the only objection is that a portion of the open area set apart in the layout sanctioned by the Director of Town and Country Planning was converted into residential plots in the layout in question by the Gram Panchayat. Admittedly, though the said fact came to light sometime in the year 1990 and the Municipality passed resolutions to cause enquiry and to initiate action against the erring officials, admittedly as of today nothing has been materialised. In the circumstances, the action of the respondent Municipality in initiating the impugned action on the basis of the layout sanctioned by the Director of Town and Country Planning is unwarranted and cannot be accepted.

Accordingly, the Writ Petitions are disposed of declaring that it is not open to the respondents to treat the plots belonging to the petitioners as open land on the basis of the layout sanctioned by the Director of Town and Country Planning vide Layout No.26/65, dated 3-11-1965. However, it is made clear that this Court has not expressed any opinion as to the legality of the steps initiated by the Municipality against the petitioner in W.P.No.2518 of 2001 under Section 228 of the A.P. Municipalities Act for the alleged unauthorised constructions / deviations or with regard to the entitlement of the said petitioner for regularization of the said constructions and it is left open to the writ petitioner to work out the appropriate remedy as available under law.

The Writ Petitions are accordingly disposed of. No costs.

June, 2005.

Note:- Office is directed to put up

a copy of this common order in

W.P.Nos.19709, 19723 & 19869

of 2002 after signatures of the

Hon'ble Judge.

(B/O)

gbs

To

1 The Secretary, Government of Andhra Pradesh, Municipal Administration, Secretariat Building, Saifabad, Hyderabad.

2 The Vice-Chairman, Hyderabad Urban Development Authority, Opp Police Lines, Begumpet, Hyderabad-500016.
3 The Commissioner, Malkajigiri Municipality, Malkajigiri, Ranga Reddy District
4 The Secretary, Defence Co-operative Housing Society, Malkajigiri, Ranga Reddy District.

5. Two CCs to G.P. for Municipal Admn. & Urban Development, High Court of AP Bldgs, Hyderabad (OUT).

6. Two CD copies.